

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION**

**CRIMINAL NO. 1:07CR10**

**UNITED STATES OF AMERICA**

**VS.**

**ALBERT HARDY, JR.**

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**ORDER**

**THIS MATTER** is before the Court on the Defendant's application to proceed on appeal without the prepayment of fees and counsel's motion to withdraw as Defendant's attorney.

The Defendant was represented by retained counsel in this matter; however, he now seeks to prosecute his appeal in *forma pauperis*. The Federal Rules of Appellate Procedure provide that

[a] party to a district-court action who desires to appeal in forma pauperis must file a motion in the district court. The party must attach an affidavit that:

(A) shows in the detail prescribed by Form 4 of the Appendix of Forms the party's inability to pay or to give security for fees and costs;

(B) claims an entitlement to redress; and

(C) states the issues that the party intends to present on appeal.

**Fed. R. App. P. 24(a)(1).** No affidavit has been provided showing Defendant's inability to pay nor has he stated the issues which he intends to present on appeal. As a result, the motion will be denied.

The Defendant is notified that he may renew this motion with the Fourth Circuit Court of Appeals within thirty days of this Order pursuant to Fed. R. App. P. 24(a)(5).

**IT IS, THEREFORE, ORDERED** that the Defendant's motion to proceed on appeal in *forma pauperis* is hereby **DENIED**.

**IT IS FURTHER ORDERED** that the motion of Defendant's counsel, Calvin E. Coleman, to withdraw is **ALLOWED**, and Mr. Coleman is hereby relieved of further responsibility for the representation of the Defendant herein.

Signed: February 25, 2008



Lacy H. Thornburg  
United States District Judge

